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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,926	02/07/2005	Jan van Walraven	WALRAVEN3	1885
1444 7590 05/25/2007 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303			EXAMINER DUMAS, NKEISHA J	
			ART UNIT 3632	PAPER NUMBER
			MAIL DATE 05/25/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,926

Applicant(s)

VAN WALRAVEN, JAN

Examiner

Nkeisha J. Dumas

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 44-52 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The following correspondence is a final Office Action for application number 10/523,926, for a VIBRATION ISOLATING PIPE CLIP, filed on 2/7/2005. This correspondence is in response to applicant's reply filed on 2/27/2007. Claims 1-43 have been cancelled. Claims 44-53 are pending. Claims 44-52 are withdrawn pursuant to a restriction requirement.

Priority

2. Applicant is advised of possible benefits under 35 U.S.C. 119(a)-(d), wherein an application for patent filed in the United States may be entitled to the benefit of the filing date of a prior application filed in a foreign country.

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Election/Restrictions

4. Newly submitted claims 44-52 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The newly submitted claims are drawn to the method of manufacturing the device, which is drawn to a different class and subclass.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 44-52 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Drawings

5. The drawings were received on 2/27/2007. These drawings are acceptable.

Claim Objections

6. Claim 53 is objected as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 53 recites the limitation "the inner circumference" in line 9, and "the outer circumference" in line 10. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Regarding claim 53, applicant recites a method limitation where the member "is made from porous vulcanized rubber." It is unnecessary to find this method in order to determine the final product, and therefore, only the product made from this method is considered.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Walraven (EP 1,106,900 A1).

Regarding claim 53, Van Walraven teaches a vibration isolating pipe clip (1) comprising a rigid pipe clip body (2, 3) which is composed of one or more parts and is provided with securing means (7); and a vibration isolating member (10) which bears against an inner circumference of the pipe clip body and is ultimately positioned between an outer circumference of the pipe and the pipe clip body (Fig. 1), wherein the vibration isolating member (13) is made from porous rubber with closed cavities and separating walls between them [0025], wherein the cavities are substantially unpressurized, in such a manner that in the event of a reduction in the volume of the cavities under the influence of deformation of the vibration isolating member, no significant pressure occurs inside the cavities [0025, 0032], wherein the vibration isolating member has a form factor defined by the quotient of the surface area which is subject to load and the free surface area, and in which the cavities significantly reduce the form factor, but does not teach that the form factor of the isolating member is less than 0.2. It would have been obvious to one of ordinary skill in the art to make the vibration isolating member of the pipe clip with a form factor of less than 0.2 since the discovery of an optimum value of a result effective variable involves only routine skill in the art.

Response to Arguments

11. Applicant's arguments filed 2/27/2007 with respect to claims 44-52 have been considered but are moot in view of the new restriction set forth above.

12. Applicant's arguments filed 2/27/2007 with respect to claim 53 have been fully considered but they are not persuasive. Applicant seems to suggest that because the

Examiner "has not acted on [cancelled] claims 24-26", the limitations in cancelled claims 24-26, in combination with cancelled claim 21, place the application in condition for allowance. As the Examiner indicated in the Office Action dated 12/1/2006, claims 24-26 were not treated on the merits because they were improperly dependent on a rejected claim. The Examiner's deliberate lack of application of a prior art rejection to claims 24-26 was not an indication of the patentability of these claims. The Examiner respectfully points out that the Van Walraven reference reads on all of applicant's limitations set forth in claim 53.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nkeisha J. Dumas whose telephone number is (571) 272-5781. The examiner can normally be reached on Monday - Friday, 8:30 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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